

Appln. No.: 10/005,789

Petition to Withdraw Holding of Abandonment filed September 21, 2004

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the Application of:

Jerome T. Hartlaub

Serial No.: 10/005,789

Filed: November 8, 2001

For: Infusion System For Creating  
Microenvironments In A Living  
Body

Atty. Docket No.: 011738.00038

Group Art Unit: 3763

Examiner: Nicholas D. Lucchesi

Confirmation No.: 2022

**PETITION TO WITHDRAW HOLDING OF  
ABANDONMENT PURSUANT TO 37 CFR §1.181**Mail Stop Petitions  
Attn: John Kittle  
Commissioner For Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Sir:

The above-identified application became abandoned for the Applicants' alleged failure to timely reply to the Office Action mailed March 3, 2004, as indicated in the attached Notice of Abandonment mailed September 8, 2004.

Applicant respectfully requests the withdrawal of the holding of abandonment of the above application in accordance with the provisions of 37 CFR §1.181 for the reasons listed below:

1. On March 3, 2004 the Patent Office mailed an Office Action rejecting the claims under 35 USC §103(a).
2. On April 27, 2004, the Applicants submitted a timely response to the Office Action. A copy of the response and the certificate of mailing is attached hereto.
3. The Applicants received the return postcard from the Patent Office showing a file-stamped date for the response of April 27, 2004. A copy of the return postcard is attached hereto.

4. On September 8, 2004 the Patent Office mailed the Notice of Abandonment to which this petition is a response.

It is respectfully submitted that the above-described information and attachments hereto indicate that a proper and timely response to the Office Action dated March 3, 2004 had been filed with the U.S. Patent and Trademark Office on April 27, 2004.

Accordingly, the Applicants respectfully request withdrawal of the Notice of Abandonment. Moreover, because the abandonment is believed to have occurred through no fault of the Applicants, the Applicants believe that such reconsideration is appropriate. The Commissioner is authorized to charge any fee necessary regarding this matter to Deposit Account No. 19-0733. The undersigned requests that the Patent Office contact him via telephone should it be necessary to facilitate the withdrawal of the holding of abandonment.

Date: September 21, 2004

Respectfully submitted,

By: Scott Burow  
Scott A. Burow  
Registration No. 42,373  
BANNER & WITCOFF, LTD.  
10 South Wacker Drive  
Suite 3000  
Chicago, Illinois 60606  
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Facsimile: 312-463-5001

**CERTIFICATE OF MAILING  
(PATENT APPLICATION)**Express Mail No. EV406109038USDeposited: April 27, 2004

I hereby certify that the attached correspondence, identified below, is being deposited with the United States Postal Service as "Express Mail Post Office to Addressee" under 37 CFR 1.10 on the date indicated above and is addressed to Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

By: Application of: HartlaubApplication No.: 10/005,789Filing Date: November 8, 2001Title: Infusion System for Creating Microenvironments in a Living Body

Transmitted herewith are the following documents:

- ☒ Transmittal Form (1 page) in duplicate
- ☒ Amendment and Response to Office Action Mailed 3-03-04 (8 pages)
- ☒ Return Postcard

Attorney Case No.: 11738.00038





UNITED STATES PATENT AND TRADEMARK OFFICE

P-7765.02

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UNITED STATES DEPARTMENT OF COMMERCE  
UNITED STATES PATENT AND TRADEMARK OFFICE  
Address: EXAMINER'S OFFICE  
P.O. Box 100  
Alexandria, VA 22304-0100  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,789	11/08/2001	Jerome T. Hartlaub	11738.00038	2022
27581	7590	09/08/2004		
MEDTRONIC, INC. 710 MEDTRONIC PARKWAY NE MS-LC340 MINNEAPOLIS, MN 55432-5604				
			EXAMINER	
			THOMSON, KATHRYN L	
			ART UNIT	PAPER NUMBER
			3763	

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

DOCKET

10-8-04 *KMC*  
*Office of Abandonment*

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PTO-900 (Rev. 10/03)

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## Notice of Abandonment

Application No.

10/005,789

Applicant(s)

HART, AUB, JEROME T.

Examiner

Art Unit

Kathryn L. Thompson

3763

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 03 March 2004.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.)
  - (c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due. The issue fee required by 37 CFR 1.15 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(a), is \$\_\_\_\_\_.
  - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☒ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent acting in a representative capacity under 37 CFR 1.124(a) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

  
 NICHOLAS D. LUCCHESI  
 SUPERVISORY PATENT EXAMINER  
 TECHNOLOGY CENTER 3763

Requests to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to maintain the application in effect on patent term.  
 PTOL-1432 (Rev. 04-01)

Notice of Abandonment

Part of Paper No. 69042004

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